

Message Text

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22-11

ACTION L-03

INFO OCT-01 ARA-10 ISO-00 SCA-01 JUSE-00 /015 W

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R 212112Z NOV 75

FM AMEMBASSY CARACAS

TO SECSTATE WASHDC 986

UNCLAS CARACAS 12159

E.O. 11652: N/A

TAGS: ASFA, APER, VE

SUBJ: MARACAIBO TRAFFIC ACCIDENT

REF: STATE 271219

1. EMBASSY'S INSURER HAS BEEN KEPT FULLY INFORMED OF INJURED PARTY'S CLAIM AND HAS RECEIVED COMPLETE COPY OF HIS DOCUMENTATION FOR CLAIM AGAINST THE US. GOVERNMENT. IN REPLY TO EMBASSY'S REQUEST FOR PROMPT DETERMINATION AND ACTION IN THE CASE AS MAY BE APPROPRIATE UNDER THE CONTRACT OF INSURANCE THE INSURER HAS DELIVERED TO THE EMBASSY THE FOLLOWING LETTER DATED NOVEMBER 20, 1975;

"THIS WILL ACKNOWLEDGE RECEIPT OF THE DOCUMENTATION FOR THE CLAIM INTIMATED BY MR. DOMENCO STACCHIOTTI AGAINST THE US. GOVERNMENT, ARISING FROM THE TRAFFIC ACCIDENT INVOLVING ONE OF THE GOVERNMENT'S VEHICLES ON THE ROAD FROM CORO TO PUNTO FIJO, ESTADO FALCON, ON THE AFTERNOON OF DECEMBER 21, 1973.

"THE ABOVE-MENTIONED DOCUMENTATION, AS WELL AS DEPARTMENT OF STATE TELEGRAM NO. 271219, WAS TRANSMITTED TO US BY MR. FAUSTO ANZALDUA, OF C.A. LEBRAN, AND HAS TAKEN UNDER OUR CONSIDERATION.

"WITH RESPECT TO PARAGRAPH 2 OF THE TELEGRAM, PLEASE BE ADVISED THAT FROM THE VERY DAY WE RECEIVED FORMAL NOTIFICATION OF THE POTENTIAL LOSS, THIS COMPANY ESTABLISHED A CLAIM RESERVE IN THE AMOUNTS OF BS. 30,000 FOR BODILY INJURY AND BS. 6,280 FOR PROPERTY DAMAGE TO THE CLAIMANT'S VEHICLE. THESE SUMS

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REPRESNT THE MAXIMUM LIABILITY UNDER THIRD PARTY LIABILITY

POLICY #13122 HELD BY THIS COMPANY.

"IN VIEW OF THE CIRCUMSTANCES SURROUNDING THIS ACCIDENT, WE OFFERED TO THE OTHER PARTY THE PAYMENT OF THE FULL AMOUNT OF THE LIMITS OF THE POLICY FOR BODILY INJURY PLUS THE COST OF THE DAMAGES TO THE OTHER PARTY'S CAR.

"HOWEVER, UP TO NOW WE HAVE NOT RECEIVED ANY REPLY FROM THE LEGAL REPRESENTATIVES OF THE OTHER PARTY AS THEY WERE RELUCTANT TO SIGN THE CORRESPONDING RELEASE.

"AS FOR PARAGRAPH 3 REGARDING STATE INSTRUCTIONS ON YOUR ASSISTANCE TO MR. STACCHIOTTI'S CLAIM, WE CAN ONLY BRING TWO FACTS TO YOUR ATTENTION:

(A) THE COURT JUDGEMENT, FINDING OUR INSURED GUILTY AND WE, LIABLE UNDER THE THIRD PARTY LIABILITY POLICY, HAS NEVER BEEN PRESENTED FOR CONSIDERATION. IN PURSUING HIS CLAIM AGAINST THE US.

GOVERNMENT UNDER THE THREAT OF A FORMAL SUIT FOR DAMAGES, MR. STACCHIOTTI HAS FAILED TO QUALIFY HIS CLAIM AGAINST THIS COMPANY,

(B) ARTICLE FOUR OF THE GENERAL CONDITIONS OF THE THIRD PARTY LIABILITY POLICY STATES: "THE INSURED MAY NOT ADMIT ANY CLAIM OR RESPONSIBILITY NOR MAKE AN OFFER, PROMISE OR PAYMENT OF ANY KIND WITHOUT THE WRITTEN CONSENT OF THE COMPANY WHO SHALL HAVE THE RIGHT TO ASSUME THE DEFENSE OF THE INSURED OR TO ADJUST ANY CLAIM, AS WELL AS INDICATE OR TO FOLLOW THE COURSE IN THE INSURED'S NAME AND FOR ITS OWN BENEFIT, OF ANY ACTION FOR INDEMNITY OF DAMEGES, IRRESPECTIVE OF PERSON NAMED; WITH FACULTY TO PROCEED AS IT DEEMS CONVENIENT AND TO ARRIVE AT ANY SETTLEMENT; AND THE INSURED SHALL PROVEDE (THE COMPANY) WHATEVER INFORMATION OR ASSISTANCE IT MAY REQUIRE AND SHALL CONFER POWERS-OF ATTORNEY AS MAY BE REQUIRED."

"WE ALSO WISH TO STATE THAT WE DO NOT SEE ANY ADVANTAGE IN OUR PART IN DEFENDING THIS CASE BEFORE ANY COURT AND AS SOON AS A FORMAL SUIT IS ESTABLISHED, THIS COMPANY INTENDS TO DEPOSIT THE FULL AMOUNT OF THE POLICY LIMITS IN SETTLEMENT OF OUR LIABILITY UNDER THE POLICY.

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"IT IS OUR LEGAL DEPARTMENT'S OPINION THAT THE AMOUNT OF THE DAMAGES CLAIMED BY THE OTHER PARTY IS EXCESSIVE."

2. THE EMBASSY QUESTIONED PARAGRAPH (B) ABOVE AND RECEIVED AN ANSWER ORALLY FROM INSURER THAT THE US. GOVERNMENT COULD IN REALITY ADMIT THE CLAIM OR MAKE AN OFFER WITHOUT AFFECTING THE INSURER'S RESPONSIBILITY OF PAYING THE LIABILITY UNDER

THE THRID PARTY POLICY HELD BY THE EMBASSY AT THE TIME
OF THE ACCIDENT.

3. EMBASSY HAS COMPLIED WITH DEPARTMENT'S REQUEST PARA 3
REFTEL.
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